In the Supreme Court of the United States

OCTOBER TERM, 1956

No. 2 Original

STATES OF WISCONSIN, MINNESOTA, OHIO AND PENNSYLVANIA, COMPLAINANTS

v.

STATE OF ILLINOIS AND THE SANITARY DISTRICT OF CHICAGO

No. 3 Original

STATE OF MICHIGAN, COMPLAINANT

v.

STATE OF ILLINOIS AND THE SANITARY DISTRICT OF CHICAGO, ET AL.

STATES OF MISSOURI, KENTUCKY, TENNESSEE, LOUISIANA, MISSISSIPPI, AND ARKANSAS, INTERVENING DEFENDANTS

No. 4 Original

STATE OF NEW YORK, COMPLAINANT

v.

STATE OF ILLINOIS AND THE SANITARY DISTRICT OF CHICAGO, ET AL.

ON MOTION OF THE STATE OF ILLINOIS FOR EXTENSION TO FEBRUARY 28, 1957, OF THE ORDER AUTHORIZING EMERGENCY DIVERSION

MEMORANDUM ON BEHALF OF THE UNITED STATES AS AMICUS CURIAE

414384—57

This memorandum is submitted to aid the Court in disposing of the Motion of the State of Illinois to amend the Order of December 17, 1956, which permitted additional diversion of water from the Great Lakes into the Illinois Waterway and the Mississippi River through January 31, 1957, in order that the diversion may continue until February 28, 1957. The State of Illinois represents that low water conditions will become critical unless diversion is continued throughout February.

We have been informed by the Corps of Engineers that following the Court's Order of December 17, 1956, additional diversion was authorized bringing the volume gradually up to 8,000 cubic feet a second by the end of December. This resulted in increasing the stage at St. Louis by about 1.2 feet. During the first week of January the depth of water over the Lock 26 sill was about eight feet.

As a result of frozen river conditions in the Missouri and Mississippi above St. Louis, the stage at St. Louis fell about 1.6 feet by January 15 and the depth of water over the sill of Lock 26 declined to 6.6 feet. It was expected to fall to 6 feet within a week.

If weather conditions continue as of the present time and if the increased diversion is terminated, the clearance at Lock 26 would fall to 4.8 feet. Meanwhile the stage at St. Louis would fall to minus 6.7 feet, which is close to the minus 7.0 stage which we are informed is critical for power plants and industrial plants in the area. Colder weather would worsen the situation; warmer weather would alleviate it.

The above information from the Corps of Engineers indicates to us that the diversion already permitted has helped the situation but that the critical condition is continuing and, if the weather becomes colder, the situation may become even more serious.

The present order does not require the Corps of Engineers to permit the full diversion authorized by the Court and in fact the diversion has been held to about 8,000 cubic feet a second, which was determined to be the maximum which could be allowed without unduly impairing navigation in the Illinois Waterway. It is suggested that, if the authority for additional diversion is extended, the amount to be diverted, within a maximum set by the Court, be left to the discretion of the Chief of Engineers as appropriate to alleviate conditions as they develop. This would enable a reduction in the amount diverted in the event weather conditions should moderate.

Respectfully submitted.

J. LEE RANKIN,
Solicitor General.
JOHN F. DAVIS,
Assistant to the Solicitor General.
DAVID R. WARNER,
Attorney.

JANUARY, 1957

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STATES OF WISCONSIN, MINNESOTA, OHIO and PENNSYLVANIA, *Complainants,* vs. STATE OF ILLINOIS and the SANITARY DISTRICT OF CHICAGO, *Defendants.*	No. 2 Original
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STATE OF NEW YORK, *Complainant,* vs. STATE OF ILLINOIS and the SANITARY DISTRICT OF CHICAGO, et al., *Defendants.*	No. 4 Original

ANSWER OF THE METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO (FORMERLY THE SANITARY DISTRICT OF CHICAGO) TO THE MOTION OF THE STATE OF ILLINOIS FOR EXTENSION TO FEBRUARY 28, 1957, OF THE ORDER AUTHORIZING EMERGENCY DIVERSION.

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Principal Assistant Attorney,
Of Counsel.

CHAMPLIN-SHEALY COMPANY, CHICAGO

IN THE

Supreme Court of the United States

Nos. 2, 3 and 4, Original

OCTOBER TERM, A. D. 1956

STATES OF WISCONSIN, MINNESOTA, OHIO and PENNSYLVANIA, *Complainants,* vs. STATE OF ILLINOIS and the SANITARY DISTRICT OF CHICAGO, *Defendants.*	No. 2 Original
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STATE OF NEW YORK, *Complainant,* vs. STATE OF ILLINOIS and the SANITARY DISTRICT OF CHICAGO, et al., *Defendants.*	No. 4 Original

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To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

MAY IT PLEASE THE COURT:

The Metropolitan Sanitary District of Greater Chicago (formerly The Sanitary District of Chicago), a Municipal Corporation, party defendant in the above entitled original causes, files this Answer pursuant to the Order of January 16, 1957, of Mr. Justice Burton, to the Motion of the State of Illinois, filed January 12, 1957, for Extension to February 28, 1957, of the Order authorizing Diversion.

The Metropolitan Sanitary District of Greater Chicago agrees with the facts stated in the Motion for Extension filed by the State of Illinois, that the emergency in navigation caused by low water in the Mississippi River will become critical during February, 1957, unless diversion is continued during that month.

This Defendant further represents that it is informed by the Corps of Engineers that the present water level at the Alton sill is about 6½ feet and is expected to decline further. This situation is caused by the existing extreme cold weather conditions in the area, as both the Upper Mississippi and the Missouri Rivers are now completely blocked with ice and therefore, almost all water going through the Alton locks is solely from the Illinois Waterway and thus from the diversion from Lake Michigan. If the diversion is cut back to 1,500 c.f.s., plus domestic pumpage on February 1, 1957, regardless of relief of weather conditions, there will be a resulting further decline in the water level at the Alton sill of 1 foot within 7-8 days.

WHEREFORE, this Defendant, THE METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO, supports the Motion of the State of Illinois that this Court should extend the temporary diversion Order, entered on

December 17, 1956, so as to continue such temporary diversion at least to include February 28, 1957.

Respectfully submitted,

THE METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO,
By: RUSSELL W. ROOT,
Attorney.

CERTIFICATE

State of Illinois } SS:
County of Cook }

The undersigned, Lawrence J. Fenlon, being first duly sworn, deposes and says that he is a duly appointed and acting Principal Assistant Attorney of The Metropolitan Sanitary District of Greater Chicago; and that the matters and things herein set forth are true in substance and in fact. Deponent further certifies that copies of the foregoing Answer have this day been mailed by first class United States mail, or United States airmail, to all parties to this proceeding, such service has been addressed, sufficient postage prepaid, as follows:

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Madison, Wisconsin

Hon. Joe T. Patterson
Attorney General
State Capitol
Jackson, Mississippi

Hon. J. Lee Rankin
Solicitor General
Department of Justice
Washington, D. C.

.....

Subscribed and sworn to before me this .... day of January, A. D. 1957.

.....
Notary Public.

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100 East Erie Street,
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